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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

RONALD DEAN JONES,

Defendant and Appellant.

A134880

(Solano County
Super. Ct. No. FCR279884)

Ronald Dean Jones (appellant) appeals from his convictions and sentence for one count of committing a lewd and lascivious act on a child under the age of 14 (Pen. Code,¹ § 288, subd. (a)), and one count of dissuading a witness (§ 136.1, subd. (b)(1)). A sentencing enhancement for being armed with a firearm while in the course of dissuading a witness was also found to be true by the jury (§ 12022, subd. (a)(1)).

Appellant's counsel has filed an opening brief in which no issues are raised, and asks this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436. Counsel's declaration states that appellant has been notified that no issues were being raised by counsel on appeal, and that an independent review under *Wende* instead was being requested. Appellant has also been advised of his right personally to file a supplemental brief raising any issues he chooses to bring to this court's attention. No supplemental brief has been filed by appellant personally.

¹ All further statutory references are to the Penal Code, unless otherwise indicated.

PROCEDURAL AND FACTUAL BACKGROUND

A three-count information was filed by the Solano County District Attorney's Office on January 31, 2011, charging appellant with two counts of committing a lewd and lascivious act on a child under the age of 14 (§ 288, subd. (a)) (Counts 1 and 3), and one count of dissuading a witness (§ 136.1, subd. (b)(1)) (Count 2). A sentencing enhancement for being armed with a firearm while in the course of dissuading a witness was also alleged in reference to Count 2 (§ 12022, subd. (a)(1)). At the arraignment on the information, appellant pleaded not guilty to all of the charges and the allegation, and the matter was continued to March 15, 2011.²

On August 29, appellant filed a motion for new counsel, pursuant to *People v. Marsden* (1970) 2 Cal.3d 118. The motion was heard on the same day, and denied by the trial court. We discern no abuse of discretion in denying the motion.

On September 1, a motion to reduce bail was made by appellant. That motion was denied by the trial court on September 6, and we discern no abuse of discretion in denying the motion.

On October 28, a written motion to suppress evidence was filed by appellant. In it he sought to suppress statements he made to police officers, allegedly in violation of *Miranda v. Arizona* (1966) 384 U.S. 436, and to suppress a firearm found in his vehicle. That motion came before the trial court for hearing on November 22. After hearing testimony from the police officers involved, and the arguments of counsel, the court denied the motion to suppress appellant's statements, but took the matter of the suppression of the firearm under submission to allow counsel to submit additional authorities in support of their respective positions.

Supplemental authorities were filed by the prosecutor on November 29, and the portion of the motion previously taken under submission was denied by the trial court on December 1.

² All further dates refer to the calendar year 2011 unless otherwise indicated.

Prior to trial, appellant's counsel filed four motions in limine to limit the admission of evidence in certain respects. Two were granted, one was taken under submission, and one was denied.

Trial commenced on December 7, and concluded the following day with the jury's verdicts of guilty as to Counts 1 and 2, and not guilty as to Count 3. The jury also found the firearm enhancement to be true.

A sentencing brief was filed by the prosecutor on January 31, 2012, urging that probation be denied, and appellant be sentenced to serve an aggregate state prison term of seven years eight months. The probation department recommended an aggregate state prison sentence of seven years. In appellant's sentencing brief, his counsel urged the court to grant probation, or alternatively, to sentence appellant to no more than three years in state prison.

Sentencing took place on March 1, 2012. The court began by allowing appellant to address the court. Immediately afterward, the trial court noted that it had reviewed all three reports and briefs concerning sentencing "at great length." The trial court denied probation, finding the victim in this case was particularly vulnerable, the facts aggravated because appellant was armed when he came into the victim's room, and appellant had expressed "zero remorse," despite incriminating statements he made to police officers during his interview. As to the length of term imposed, the court articulated both the mitigating and aggravating factors, concluding that the aggravating factors "far outweigh[ed]" the single mitigating factor. Accordingly, the trial court imposed the aggravated term of eight years in state prison for the conviction in Count 1, stayed imposition of sentence as to Count 2, and stayed the sentence as to the enhancement. In staying imposition of sentence as to Count 2 and the enhancement, the court noted that it had already taken the circumstances of Count 2 and the enhancement into account in selecting the aggravated term for Count 1. Credit for time already served was granted, and other sentencing fines, penalties, and conditions imposed.

CONCLUSIONS BASED UPON INDEPENDENT RECORD REVIEW

Upon our independent review of the record we conclude there are no meritorious issues to be argued, or that require further briefing on appeal.

We conclude that appellant's conviction and true findings as to the enhancements were supported by substantial evidence. No potentially prejudicial error occurred during the course of the trial.

We also discern no error in the sentencing. The refusal to grant probation, and the sentencing choices made by the trial court were consistent with applicable law, supported by substantial evidence, and were well within the discretion of the trial court. The restitution fines and penalties imposed were supported by the law and facts. At all times appellant was represented by counsel.

DISPOSITION

The judgment is affirmed.

RUVOLO, P. J.

We concur:

REARDON, J.

RIVERA, J.